

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JESSIE HOLMES,)
Petitioner,)
v.) CIVIL ACTION NO. 2:06 cv-958-MHT
GREIL HOSPITAL, *et al.*,)
Respondents.)

RESPONSE TO SHOW CAUSE

In response to the court's order of December 13, 2006 in this cause, the undersigned responds to the court as follows:

1. Upon receipt of the order of the Court on October 26, 2006, the undersigned, as both a deputy attorney general and general counsel for the Alabama Department of Mental Health and Mental Retardation, including serving as counsel to Allen Stewart, the Director of Greil Hospital and John Houston, Commissioner of the Alabama Department of Mental Health and Mental Retardation, requested permission to defend all parties.

This was due to the fact that unlike the typical habeas corpus petition, where the petitioner is a convicted criminal, whose petition is responded to by attorneys from the Attorney General's Office proper, this petition is from a patient being treated in Greil Hospital for mental illness.

2. Following this request to defend and upon receipt of the order received directly by the Attorney General's Office to respond to this complaint, the undersigned was assigned to represent all parties by the Attorney General.

3. During the pendency of that assignment, the undersigned immediately began to investigate this complaint and gather information regarding the petitioner's status to assist in a response irrespective of the litigation assignment.

4. However, at the time the response was due, the undersigned and other attorneys who were available to provide an appropriate response were engaged in trial preparation for an anticipated two-week-long wrongful death jury trial in the Circuit Court of Mobile County, Alabama, and were involved in a combination of settlement, discovery and trial preparation for two other cases in the Circuit Court of Montgomery, Alabama, set for trial in December, 2006 and January, 2007, in addition to our routine commitment/admission to DMH/MR services matters and a higher than normal rash of state and federal, administrative personnel matters due in November and December; along with legislative preparation for the upcoming Regular Session for the Alabama Legislature, a current, primary responsibility for the undersigned . One case has now been continued, the other, settled, although final settlement documentation has yet been completed and the January case is still pending.

5. Further, our office is currently short, but seeking to fill our most senior, career attorney position and legal assistant vacancies which will go far in mitigating our current workload.

6. Lastly, the legal and clinical history and condition of Mr. Holmes are not typical of most persons served by DMH/MR and this case has required several visits and consultations with his physician and other hospital staff to be able to summarize it in the answer filed herewith.

WHEREFORE, the undersigned moves the court to accept this response as cause and accept the respondents answer, filed contemporaneously herewith.

Respectfully submitted this the 27thth day of December, 2006.

TROY KING, KIN047
ATTORNEY GENERAL

/s/Courtney W. Tarver
COURTNEY W. TARVER, TAR009
DEPUTY ATTORNEY GENERAL
& GENERAL COUNSEL
Alabama Department of Mental Health &
Mental Retardation
100 N. Union St.
P.O. Box 301410
Montgomery, AL 36130-1410
334-242-3038 (Phone)
334-242-0924 (Fax)
courtney.tarver@mh.alabama.gov

Attorney for the Respondents

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Answer and Special Report upon the petitioner by placing a copy of the foregoing in the U.S. Mail, postage prepaid and submitting it to the following address this the 27th day of December 2006:

Jessie Holmes (Pro-se)
Greil Hospital
2140 Upper Wetumpka Road
Montgomery, AL 36107

/s/ Courtney W. Tarver
COURTNEY W. TARVER